

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KENNETH KISSELBURG,)
)
Plaintiff,)
)
vs.) Case No. CIV-05-0715-F
)
AAR ALLEN GROUP, INC.)
)
Defendant.)

ORDER

Defendant AAR Allen Group, Inc.'s Motion to Reconsider Remand of Remaining Claims, filed September 6, 2005, is before the court (doc. no. 30). Plaintiff has responded, and the motion is ready for determination. In its Order of September 8, 2005, the court granted the motion to the limited extent that it agreed to reconsider the remand of state law claims in this action, but the court has not yet ruled on the substantive question presented by the motion, which is whether the state law claims should be remanded or should remain in this court.

Defendant argues that the state law claims should remain in this court because this case was removed to this court not only on federal subject matter jurisdiction but also on the basis of diversity jurisdiction. Plaintiff agrees that there is more than \$75,000 in dispute and otherwise agrees that the court has diversity jurisdiction over the state law claims; nevertheless, plaintiff argues that the court should remand the state claims because state law is in issue.

There is no basis for a remand where a case is properly removed and diversity jurisdiction is present. Accordingly, defendant's Motion for Reconsideration is **GRANTED** on its merits, and those portions of the August 31, 2005 Order which discussed a remand of the state law claims (Part 3 and the second paragraph of the

“Conclusion” portion of the August 31 Order) are **VACATED**. The court will address defendant’s original motion to dismiss the two state law claims (doc. no. 15) in a separate order, based upon the briefing which has already been submitted.

Dated this 12th day of October, 2005.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

05-0715p007(pub).wpd